

Notice of Allowability	Applicant(s)	Applicant(s)	
	09/881,095	KIMURA, KOICHI	
	Examiner	Art Unit	
	Prasad R Akkapeddi	2871	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 05/18/2004.
2. ☒ The allowed claim(s) is/are 1-21.
3. ☒ The drawings filed on 15 June 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>05/18/2004</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Eric Jensen on 05/18/2004.

The application has been amended as follows:

In the claims

- In claim 1, line 4, after "formed", - - directly - - has been inserted.
- In claim 8, line 7, after "formed", - - directly - - has been inserted.
- In claim 10, line 4, "at" has been deleted.
- In claim 10, line 4, after "disposed", - - directly over - - has been inserted.
- In claim 16, line 4, "at" has been deleted.
- In claim 16, line 4, after "disposed", - - directly over - - has been inserted.

Election/Restrictions

2. Claims 1, 8, 10 and 16 are generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 7, 12-15 and 18-21, directed to the species of IIB no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Allowable Subject Matter

3. Claims 1-21 are allowed.

4. The following is an examiner's statement of reasons for allowance:

A search of the prior art did not disclose an optical element, optical light source and an optical display device comprising a combination of structural elements, more specifically:

(a) An optical filter comprising a cholesteric layer formed directly over a fluorescence luminous element at a side of the fluorescence luminous element at

which the excitation light enters the fluorescence luminous element so as to transmit at least partly the excitation light and to reflect at least partly the fluorescent light traveling to the optical filter.

(b) An optical element comprising a fluorescence luminous element operative to emit fluorescent light when excited by the excitation light and an optical filter disposed directly over a side of the fluorescence luminous element at which the excitation light enters the fluorescence luminous element.

The previously identified prior art by Hikmet, has the optical filter and the fluorescent elements reversed as pointed by the applicant in the arguments. A further search has provided the following references that do not teach the limitations as recited in the instant claims.

For example: (a) Vriens (U.S. Patent No. 4,822,144) teaches the formation of a filter (14) over a phosphor layer (11). The filter is an interference filter as compared to a filter comprising a cholesteric layer as claimed in the instant claims.

(b) Broer (U.S. Patent No. 6,210,012) does teach a cholesteric filter (9) and a fluorescent luminous element (5). However, the filter is not directly formed over the fluorescent luminous element, instead a liquid crystal material (7) with electrodes (8,8') is interposed between the filter (9) and the fluorescent element (5). Hence Broer does not teach the formation of the filter directly over the fluorescent luminous element.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

5. Applicant's arguments see response, filed 03/01/2004 and the Examiner's amendment of 05/18/2004 with respect to claims 1,8,10 and 16 have been fully considered and are persuasive. The rejection of 10/31/2003 has been withdrawn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prasad R Akkapeddi whose telephone number is 571-272-2285. The examiner can normally be reached on 7:00AM to 5:30PM M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H Kim can be reached on 571-272-2293. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PRA

Prasad R Akkapeddi, Ph.D
Examiner
Art Unit 2871

Tarifur R. Chowdhury
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PRIMARY EXAMINER